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Attorneys for Defendant,  
The Arnold Engineering Company

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**IN AND FOR THE COUNTY OF ORANGE**

ORANGE COUNTY WATER DISTRICT,

Plaintiff,

vs.

NORTHROP CORPORATION; NORTHROP  
GRUMMAN CORPORATION; AMERICAN  
ELECTRONICS, INC.; MAG AEROSPACE  
INDUSTRIES, INC.; GULTON  
INDUSTRIES, INC., MARK IV  
INDUSTRIES, INC.; EDO CORPORATION;  
MOORE BUSINESS FORMS, INC.; AC  
PRODUCTS, INC.; FULLERTON  
MANUFACTURING COMPANY;  
FULLERTON BUSINESS PARK LLC; and  
DOES 1 through 400, inclusive,

Defendants.

Case No. 04CC00715

Complaint Filed: December 17, 2004

Assigned for all purposes to the Honorable  
Thierry P. Colaw in Dept. ex104

**VERIFIED FIRST AMENDED ANSWER  
AND AFFIRMATIVE DEFENSES TO  
FIRST AMENDED COMPLAINT**

The Arnold Engineering Company ("Arnold"), also known as "The Arnold  
Engineering Company which has conducted business in California as The Illinois Arnold  
Engineering Co." and, for purposes of this answer, DOE 91, hereby submits its First Amended  
Answer to the First Amended Complaint of Orange County Water District ("Plaintiff"). Arnold's  
answers to Plaintiff's allegations below are intended to apply to Arnold alone and do not speak to  
the actions of other persons or entities.

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**SUMMARY**

1. Paragraph 1 contains statements of intent or legal conclusions requiring no response. To the extent the paragraph contains allegations requiring a response, Arnold lacks sufficient information or belief to admit or deny the allegations, and on that basis denies them.
2. Paragraph 2 contains statements of intent or legal conclusions requiring no response. To the extent the paragraph contains allegations requiring a response, Arnold lacks sufficient information or belief to admit or deny the allegations, and on that basis denies them.
3. Answering paragraph 3, Arnold lacks sufficient information or belief to admit or deny the allegations of this paragraph, and on that basis denies them.

**PLAINTIFF**

4. Paragraph 4 contains legal conclusions requiring no response. To the extent the paragraph contains allegations requiring a response, Arnold lacks sufficient information or belief to admit or deny the allegations, and on that basis denies them.
5. Paragraph 5 contains legal conclusions requiring no response. To the extent the paragraph contains allegations requiring a response, Arnold lacks sufficient information or belief to admit or deny the allegations, and on that basis denies them.
6. Paragraph 6 contains legal conclusions requiring no response. To the extent the paragraph contains allegations requiring a response, Arnold lacks sufficient information or belief to admit or deny the allegations, and on that basis denies them.

**DEFENDANTS AND SITE HISTORY**

7. Paragraph 7 contains definitions and legal conclusions requiring no response. To the extent the paragraph contains allegations requiring a response, Arnold lacks sufficient information or belief to admit or deny the allegations, and on that basis denies them.
8. Answering paragraph 8, Arnold lacks sufficient information or belief to admit or deny the allegations of this paragraph, and on that basis denies them.
9. Answering paragraph 9, Arnold lacks sufficient information or belief to admit or deny the allegations of this paragraph, and on that basis denies them.

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1           10.     Answering paragraph 10, Arnold lacks sufficient information or belief to  
2 admit or deny the allegations of this paragraph, and on that basis denies them.

3           11.     Answering paragraph 11, Arnold lacks sufficient information or belief to  
4 admit or deny the allegations of this paragraph, and on that basis denies them.

5           12.     Answering paragraph 12, Arnold lacks sufficient information or belief to  
6 admit or deny the allegations of this paragraph, and on that basis denies them.

7           13.     Answering paragraph 13, Arnold lacks sufficient information or belief to  
8 admit or deny the allegations of this paragraph, and on that basis denies them.

9           14.     Answering paragraph 14, Arnold lacks sufficient information or belief to  
10 admit or deny the allegations of this paragraph, and on that basis denies them.

11          15.     Answering paragraph 15, Arnold lacks sufficient information or belief to  
12 admit or deny the allegations of this paragraph, and on that basis denies them.

13          16.     Answering paragraph 16, Arnold lacks sufficient information or belief to  
14 admit or deny the allegations of this paragraph, and on that basis denies them.

15          17.     Answering paragraph 17, Arnold lacks sufficient information or belief to  
16 admit or deny the allegations of this paragraph, and on that basis denies them.

17          18.     Answering paragraph 18, Arnold lacks sufficient information or belief to  
18 admit or deny the allegations of this paragraph, and on that basis denies them.

19          19.     Answering paragraph 19, Arnold lacks sufficient information or belief to  
20 admit or deny the allegations of this paragraph, and on that basis denies them.

21          20.     Answering paragraph 20, Arnold lacks sufficient information or belief to  
22 admit or deny the allegations of this paragraph, and on that basis denies them.

23          21.     Answering paragraph 21, Arnold admits that it conducted business  
24 operations at 1551 E. Orangethorpe Avenue in Fullerton, California. Except as expressly  
25 admitted, Arnold lacks sufficient information or belief to admit or deny the remaining allegations  
26 of this paragraph, and on that basis denies them.

27          22.     Answering paragraph 22, Arnold lacks sufficient information or belief to  
28 admit or deny the allegations of this paragraph, and on that basis denies them.

1                   **CHEMICALS OF CONCERN AND RELEVANT OPERATIONS**

2                   23.     Paragraph 23 contains definitions requiring no response. To the extent the  
3 paragraph contains allegations requiring a response, Arnold lacks sufficient information or belief  
4 to admit or deny the allegations, and on that basis denies them.

5                   24.     Answering paragraph 24, Arnold admits that PCE and TCE are organic  
6 compounds that can be used as cleaning solvents and that PCE can be transformed into other  
7 compounds under certain conditions. Except as expressly admitted, Arnold lacks sufficient  
8 information or belief to admit or deny the remaining allegations of this paragraph, and on that  
9 basis denies them.

10                  25.     Answering paragraph 25, Arnold lacks sufficient information or belief to  
11 admit or deny the allegations of this paragraph, and on that basis denies them.

12                  26.     Paragraph 26 contains legal conclusions requiring no response. To the  
13 extent the paragraph contains allegations requiring a response, Arnold lacks sufficient information  
14 or belief to admit or deny the allegations, and on that basis denies them.

15                  27.     Answering paragraph 27, Arnold lacks sufficient information or belief to  
16 admit or deny the allegations of this paragraph, and on that basis denies them.

17                  28.     Paragraph 28 contains legal conclusions requiring no response. To the  
18 extent the paragraph contains allegations requiring a response, Arnold lacks sufficient information  
19 or belief to admit or deny the allegations, and on that basis denies them.

20                               **FIRST CAUSE OF ACTION**

21                               (Orange County Water District Act – Against all Defendants)

22                  29.     Answering paragraph 29, Arnold incorporates by reference its answers to  
23 paragraphs 1 through 28 above, as though fully set forth herein.

24                  30.     Paragraph 30 contains legal conclusions requiring no response. To the  
25 extent the paragraph contains allegations requiring a response, Arnold lacks sufficient information  
26 or belief to admit or deny the allegations, and on that basis denies them.

27                  31.     Answering paragraph 31, Arnold lacks sufficient information or belief to  
28 admit or deny the allegations of this paragraph, and on that basis denies them.

1                   32.       Answering paragraph 32, Arnold lacks sufficient information or belief to  
2 admit or deny the allegations of this paragraph, and on that basis denies them.

3                   33.       Paragraph 33 contains legal conclusions requiring no response. To the  
4 extent the paragraph contains allegations requiring a response, Arnold lacks sufficient information  
5 or belief to admit or deny the allegations, and on that basis denies them.

6                   34.       Paragraph 34 contains legal conclusions requiring no response. To the  
7 extent the paragraph contains allegations requiring a response, Arnold lacks sufficient information  
8 or belief to admit or deny the allegations, and on that basis denies them.

9                   35.       Paragraph 35 contains legal conclusions requiring no response. To the  
10 extent the paragraph contains allegations requiring a response, Arnold lacks sufficient information  
11 or belief to admit or deny the allegations, and on that basis denies them.

12                                   **SECOND CAUSE OF ACTION**

13                                   (California Superfund Act – Against all Defendants)

14                   36.       Answering paragraph 36, Arnold incorporates by reference its answers to  
15 paragraphs 1 through 35 above, as though fully set forth herein.

16                   37.       Paragraph 37 contains legal conclusions requiring no response. To the  
17 extent the paragraph contains allegations requiring a response, Arnold lacks sufficient information  
18 or belief to admit or deny the allegations, and on that basis denies them.

19                   38.       Paragraph 38 contains legal conclusions requiring no response. To the  
20 extent the paragraph contains allegations requiring a response, Arnold lacks sufficient information  
21 or belief to admit or deny the allegations, and on that basis denies them.

22                   39.       Paragraph 39 contains legal conclusions requiring no response. To the  
23 extent the paragraph contains allegations requiring a response, Arnold lacks sufficient information  
24 or belief to admit or deny the allegations, and on that basis denies them.

25                   40.       Paragraph 40 contains legal conclusions requiring no response. To the  
26 extent the paragraph contains allegations requiring a response, Arnold lacks sufficient information  
27 or belief to admit or deny the allegations, and on that basis denies them.

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1           41. Paragraph 41 contains statements of intent or legal conclusions requiring no  
2 response. To the extent the paragraph contains allegations requiring a response, Arnold lacks  
3 sufficient information or belief to admit or deny the allegations, and on that basis denies them.

4                                   **THIRD CAUSE OF ACTION**

5                                   (Negligence – Against all Defendants)

6           42. Answering paragraph 42, Arnold incorporates by reference its answers to  
7 paragraphs 1 through 41 above, as though fully set forth herein.

8           43. Paragraph 43 contains legal conclusions requiring no response. To the  
9 extent the paragraph contains allegations requiring a response, Arnold lacks sufficient information  
10 or belief to admit or deny the allegations, and on that basis denies them.

11          44. Paragraph 44 contains legal conclusions requiring no response. To the  
12 extent the paragraph contains allegations requiring a response, Arnold lacks sufficient information  
13 or belief to admit or deny the allegations, and on that basis denies them.

14          45. Paragraph 45 contains legal conclusions requiring no response. To the  
15 extent the paragraph contains allegations requiring a response, Arnold lacks sufficient information  
16 or belief to admit or deny the allegations, and on that basis denies them.

17          46. Paragraph 46 contains legal conclusions requiring no response. To the  
18 extent the paragraph contains allegations requiring a response, Arnold lacks sufficient information  
19 or belief to admit or deny the allegations, and on that basis denies them.

20          47. Answering paragraph 47, Arnold lacks sufficient information or belief to  
21 admit or deny the allegations of this paragraph, and on that basis denies them.

22          48. Paragraph 48 contains legal conclusions requiring no response. To the  
23 extent the paragraph contains allegations requiring a response, Arnold lacks sufficient information  
24 or belief to admit or deny the allegations, and on that basis denies them.

25          49. Paragraph 49 contains legal conclusions requiring no response. To the  
26 extent the paragraph contains allegations requiring a response, Arnold lacks sufficient information  
27 or belief to admit or deny the allegations, and on that basis denies them.

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50. Paragraph 50 contains legal conclusions requiring no response. To the extent the paragraph contains allegations requiring a response, Arnold lacks sufficient information or belief to admit or deny the allegations, and on that basis denies them.

51. Paragraph 51 contains legal conclusions requiring no response. To the extent the paragraph contains allegations requiring a response, Arnold lacks sufficient information or belief to admit or deny the allegations, and on that basis denies them.

#### **FOURTH CAUSE OF ACTION**

(Nuisance – Against all Defendants)

52. Answering paragraph 52, Arnold incorporates by reference its answers to paragraphs 1 through 51 above, as though fully set forth herein.

53. Paragraph 53 contains legal conclusions requiring no response. To the extent the paragraph contains allegations requiring a response, Arnold lacks sufficient information or belief to admit or deny the allegations, and on that basis denies them.

54. Paragraph 54 contains legal conclusions requiring no response. To the extent the paragraph contains allegations requiring a response, Arnold lacks sufficient information or belief to admit or deny the allegations, and on that basis denies them.

55. Paragraph 55 contains legal conclusions requiring no response. To the extent the paragraph contains allegations requiring a response, Arnold lacks sufficient information or belief to admit or deny the allegations, and on that basis denies them.

56. Paragraph 56 contains legal conclusions requiring no response. To the extent the paragraph contains allegations requiring a response, Arnold lacks sufficient information or belief to admit or deny the allegations, and on that basis denies them.

57. Paragraph 57 contains legal conclusions requiring no response. To the extent the paragraph contains allegations requiring a response, Arnold lacks sufficient information or belief to admit or deny the allegations, and on that basis denies them.

58. Paragraph 58 contains legal conclusions requiring no response. To the extent the paragraph contains allegations requiring a response, Arnold lacks sufficient information or belief to admit or deny the allegations, and on that basis denies them.

1           59. Paragraph 59 contains legal conclusions requiring no response. To the  
2 extent the paragraph contains allegations requiring a response, Arnold lacks sufficient information  
3 or belief to admit or deny the allegations, and on that basis denies them.

4           60. Paragraph 60 contains legal conclusions requiring no response. To the  
5 extent the paragraph contains allegations requiring a response, Arnold lacks sufficient information  
6 or belief to admit or deny the allegations, and on that basis denies them.

7           61. Paragraph 61 contains legal conclusions requiring no response. To the  
8 extent the paragraph contains allegations requiring a response, Arnold lacks sufficient information  
9 or belief to admit or deny the allegations, and on that basis denies them.

10                                   **FIFTH CAUSE OF ACTION**

11                                   (Trespass – Against all Defendants)

12           62. Answering paragraph 62, Arnold incorporates by reference its answers to  
13 paragraphs 1 through 61 above, as though fully set forth herein.

14           63. Paragraph 63 contains legal conclusions requiring no response. To the  
15 extent the paragraph contains allegations requiring a response, Arnold lacks sufficient information  
16 or belief to admit or deny the allegations, and on that basis denies them.

17           64. Paragraph 64 contains legal conclusions requiring no response. To the  
18 extent the paragraph contains allegations requiring a response, Arnold lacks sufficient information  
19 or belief to admit or deny the allegations, and on that basis denies them.

20           65. Paragraph 65 contains legal conclusions requiring no response. To the  
21 extent the paragraph contains allegations requiring a response, Arnold lacks sufficient information  
22 or belief to admit or deny the allegations, and on that basis denies them.

23           66. Paragraph 66 contains legal conclusions requiring no response. To the  
24 extent the paragraph contains allegations requiring a response, Arnold lacks sufficient information  
25 or belief to admit or deny the allegations, and on that basis denies them.

26           67. Paragraph 67 contains legal conclusions requiring no response. To the  
27 extent the paragraph contains allegations requiring a response, Arnold lacks sufficient information  
28 or belief to admit or deny the allegations, and on that basis denies them.



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**SIXTH CAUSE OF ACTION**

(Declaratory Relief – Against all Defendants)

68. Answering paragraph 68, Arnold incorporates by reference its answers to paragraphs 1 through 67 above, as though fully set forth herein.

69. Paragraph 69 contains legal conclusions requiring no response. To the extent the paragraph contains allegations requiring a response, Arnold lacks sufficient information or belief to admit or deny the allegations, and on that basis denies them.

70. Paragraph 70 contains legal conclusions requiring no response. To the extent the paragraph contains allegations requiring a response, Arnold lacks sufficient information or belief to admit or deny the allegations, and on that basis denies them.

71. Paragraph 71 contains legal conclusions requiring no response. To the extent the paragraph contains allegations requiring a response, Arnold lacks sufficient information or belief to admit or deny the allegations, and on that basis denies them.

72. Answering paragraph 72, Arnold lacks sufficient information or belief to admit or deny the allegations of this paragraph, and on that basis denies them.

73. Paragraph 73 contains legal conclusions requiring no response. To the extent the paragraph contains allegations requiring a response, Arnold lacks sufficient information or belief to admit or deny the allegations, and on that basis denies them.

74. Paragraph 74 contains statements of intent requiring no response. To the extent the paragraph contains allegations requiring a response, Arnold lacks sufficient information or belief to admit or deny the allegations, and on that basis denies them.

**INITIAL AFFIRMATIVE DEFENSES**

**FIRST DEFENSE**

**(Failure to State a Claim)**

1. Plaintiff has failed to state facts sufficient to constitute any cause of action against Arnold and therefore has failed to state a claim upon which relief may be granted.

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**SECOND DEFENSE**

**(Failure to State a Claim – Vagueness)**

2. Plaintiff has also failed to state a claim upon which relief may be granted because the allegations against Arnold are vague and unintelligible.

**THIRD DEFENSE**

**(Venue)**

3. Venue is not proper in this Court under the applicable forum statutes, including Section 394 of the Code of Civil Procedure.

**FOURTH DEFENSE**

**(Standing)**

4. Plaintiff lacks standing to bring this action.

**FIFTH DEFENSE**

**(Statute of Limitations)**

5. Some or all of Plaintiff's claims are barred by applicable statutes of limitations.

**SIXTH DEFENSE**

**(Laches)**

6. Some or all of Plaintiff's claims are barred by the doctrine of laches.

**SEVENTH DEFENSE**

**(Unclean Hands)**

7. Some or all of Plaintiff's claims are barred as a matter of equity because Plaintiff has "unclean hands" or otherwise has engaged in conduct sufficient to bar its claims.

**EIGHTH DEFENSE**

**(Estoppel)**

8. Some or all of Plaintiff's claims are barred by the doctrine of equitable estoppel.

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1 **NINTH DEFENSE**

2 **(Waiver)**

3 9. Some or all of Plaintiff's claims are barred by the doctrine of waiver.

4 **TENTH DEFENSE**

5 **(Exhaustion, Prerequisites, and Conditions Precedent)**

6 10. Some or all of Plaintiff's claims are barred because Plaintiff failed to  
7 exhaust its remedies and has not performed all necessary conditions precedent or satisfied the  
8 jurisdictional prerequisites required prior to commencing this action, including those required  
9 under the California Superfund Act and the Orange County Water District Act.

10 **ELEVENTH DEFENSE**

11 **(Failure to Join Indispensable or Necessary Parties)**

12 11. Plaintiff has failed to join all indispensable or necessary parties needed for  
13 the just and complete adjudication of the subject matter of this action.

14 **TWELFTH DEFENSE**

15 **(Failure to Mitigate)**

16 12. Plaintiff has failed to mitigate, reduce or otherwise avoid its alleged costs  
17 and damages, if any. As a result, any damages awarded should be barred or reduced accordingly.

18 **THIRTEENTH DEFENSE**

19 **(Comparative or Contributory Fault)**

20 13. Any purported damages to Plaintiff are the result of Plaintiff's own  
21 negligence and/or other acts or omissions. As a result, any recovery should be reduced by  
22 Plaintiff's comparative fault or degree of responsibility.

23 **FOURTEENTH DEFENSE**

24 **(Intervening Acts and Proximate Cause)**

25 14. Plaintiff cannot recovery damages from Arnold because any such damages  
26 were proximately caused by unforeseen, unforeseeable, independent or superceding events beyond  
27 the control of Arnold, or otherwise unrelated to any actions taken by Arnold, including, but not  
28 limited to, an act of God, an act of war, or any other act or omission of a third party. No act or

1 omission by Arnold, any of its agents or any other person or entity working on its behalf, was the  
2 actual or proximate cause of the damages alleged in Plaintiff's Complaint.

3 **FIFTEENTH DEFENSE**

4 **(Due Care and Compliance)**

5 15. At all times, all activities conducted by Arnold were carried out with due  
6 care and in compliance or substantial compliance with all statutory, regulatory and common law  
7 requirements.

8 **SIXTEENTH DEFENSE**

9 **(Contribution/Indemnity)**

10 16. Should Plaintiff recover damages from Arnold, if any, Arnold is entitled to  
11 indemnification and/or contribution, in whole or in part, from all persons or entities whose  
12 negligence, fault, or other conduct caused or contributed in any way to such damages. Arnold  
13 reserves the right to pursue any and all action against such persons or entities for contribution  
14 and/or indemnification.

15 **SEVENTEENTH DEFENSE**

16 **(Divisibility)**

17 17. Should Plaintiff recover damages from Arnold, if any, such damages are  
18 distinct, divisible and separate. Therefore, Arnold cannot be held jointly and severally liable for  
19 any damages not caused by it.

20 **EIGHTEENTH DEFENSE**

21 **(Joint and Several Liability)**

22 18. Plaintiff fails to state a claim or allege facts that support a finding of joint  
23 and several liability against Arnold for any damages alleged in Plaintiff's Complaint.

24 **NINETEENTH DEFENSE**

25 **(Offset)**

26 19. Some or all of Plaintiff's claims are subject to an offset.

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1 **TWENTIETH DEFENSE**

2 **(Unjust Enrichment)**

3 20. Plaintiff would be unjustly enriched should it receive the relief prayed for in  
4 its First Amended Complaint.

5 **TWENTY-FIRST DEFENSE**

6 **(Punitive Damages)**

7 21. Plaintiff's claims for punitive damages are precluded, in whole or in part,  
8 by the California Constitution and the United States Constitution.

9 **TWENTY-SECOND DEFENSE**

10 **(Due Process)**

11 22. Some or all of Plaintiff's claims under the California Superfund Act and the  
12 Orange County Water District Act violate Arnold's due process rights guaranteed by the  
13 California Constitution and the United States Constitution.

14 **TWENTY-THIRD DEFENSE**

15 **(Preemption)**

16 23. Some or all of Plaintiff's claims under the California Superfund Act and the  
17 Orange County Water District Act are preempted by the Comprehensive Environmental Response,  
18 Compensation and Liability Act of 1980, 42 U.S.C. § 9601 et seq. (as amended).

19 **TWENTY-FOURTH DEFENSE**

20 **(CERCLA)**

21 24. Arnold reserves the right to assert any and all defenses available to it under  
22 the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C.  
23 § 9601 et seq. (as amended) should the jurisdiction of that Act be triggered in this action.

24 **TWENTY-FIFTH DEFENSE**

25 **(Invalidity of the North Basin Groundwater Protection Project)**

26 24. Arnold is informed and believes that on or about November 16, 2005,  
27 Plaintiff's Board of Directors approved a costly remedial plan called the North Basin Groundwater  
28 Protection Project (the "Groundwater Cleanup Project"), and that Plaintiff seeks in this action to

1 recover all of the costs associated with implementing the Groundwater Cleanup Project from  
2 Arnold and the other defendants. Defendant is further informed and believes that Plaintiff's  
3 approval of the Groundwater Cleanup Project is invalid procedurally and substantively because,  
4 among other things, Plaintiff (1) failed to provide adequate notice of Plaintiff's consideration of  
5 the Groundwater Cleanup Project to Arnold and the other defendants, (2) failed to permit Arnold  
6 and the other defendants to provide comments on the Groundwater Cleanup Project, (3) failed to  
7 consider all chemicals present in the groundwater and their likely sources, (4) failed to consider  
8 more cost-effective and feasible alternatives to the Groundwater Cleanup Project, (5) failed to  
9 evaluate the location and depths of extraction wells, and (6) failed to evaluate recharge of the  
10 treated water.

11 **TWENTY-SIXTH DEFENSE**

12 **(Reservation)**

13 25. Arnold reserves the right to assert additional affirmative and other defenses  
14 during and following the completion of discovery and also intends to rely on any other affirmative  
15 defense asserted by the other co-defendants in this action.

16 **PRAYER**

17 WHEREFORE, Defendant Arnold prays as follows:

- 18 1. That Plaintiff recover nothing from Arnold by reason of its First Amended  
19 Complaint;  
20 2. That the First Amended Complaint be dismissed in its entirety as to Arnold,  
21 without prejudice;  
22 3. That Arnold be awarded its costs of suit and reasonable attorneys' fees  
23 incurred herein; and

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1                   4.       For such other and further relief as this Court may deem just and proper.

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3 DATED:     September 7, 2006

MUSICK, PEELER & GARRETT, LLP

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5 By: \_\_\_\_\_

6       Steven J. Elie, Esq.  
7       Donald E. Bradley, Esq.  
8       Sean A. Kading, Esq.  
9       Attorneys for Defendant  
10       The Arnold Engineering Company

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VERIFICATION

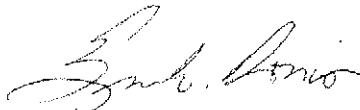
I, Emi A. Donis, declare:

I am authorized to make this verification for and on behalf of Defendant The Arnold Engineering Company.

I have read the foregoing First Amended Answer of The Arnold Engineering Company to the First Amended Complaint filed by Plaintiff Orange County Water District and know its contents. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury under the laws of the States of California and Oregon that the foregoing is true and correct.

Executed this 6<sup>th</sup> day of September, 2006 in Portland, Oregon.



Emi A. Donis



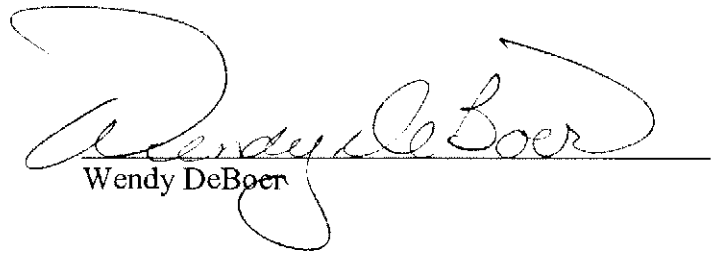
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**PROOF OF SERVICE VIA LEXISNEXIS FILE AND SERVE**

I, Wendy DeBoer, hereby declare under penalty of perjury under the laws of the State of California, that a true copy of the following documents:

**VERIFIED FIRST AMENDED ANSWER AND AFFIRMATIVE  
DEFENSES TO FIRST AMENDED COMPLAINT**

was served via LexisNexis File & Serve on all parties in this action on September 7, 2006, at Costa Mesa, California.



Wendy DeBoer